



## U.S. Copyright Office

### 37 CFR Parts 201, 202, 203, 210, and 370

[Docket No. 2021-3]

#### Technical Amendments Regarding the Copyright Office's Organizational Structure

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

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**SUMMARY:** This final rule makes technical changes to the U.S. Copyright Office's regulations pertaining to its organizational structure in light of the agency's recent reorganization. It reflects recent structural changes, updates certain of the Office's division names, and adds a new section for the Copyright Claims Board established by the Copyright Alternative in Small-Claims Enforcement Act of 2020.

**DATES:** Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at [regans@copyright.gov](mailto:regans@copyright.gov), Kevin R. Amer, Deputy General Counsel, by email at [kamer@copyright.gov](mailto:kamer@copyright.gov), or Joanna R. Blatchly, Attorney-Advisor, by email at [jblatchly@copyright.gov](mailto:jblatchly@copyright.gov) or by telephone at (202) 707-8350.

**SUPPLEMENTARY INFORMATION:** The Copyright Office is publishing this final rule pursuant to its May 2021 reorganization. This effort is intended to accomplish two goals: (1) rename divisions and realign certain reporting structures to improve the Office's effectiveness and efficiency; and (2) reflect the agency structure for the new copyright small-claims tribunal established by the Copyright Alternative in Small-Claims Enforcement ("CASE") Act of 2020.<sup>1</sup> The Register has determined that these changes will optimize business processes and aid in the administration of her functions and duties as Director of the Copyright Office.<sup>2</sup>

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<sup>1</sup> Public Law 116-260, sec. 212, 134 Stat. 1182, 2176 (2020).

<sup>2</sup> See 17 U.S.C. 701(a).

*Operational reorganization.* The reorganization reduces the number of direct reports to the Register of Copyrights and is expected to create administrative and cost efficiencies by consolidating operational organizations currently headed by senior-level positions. The reorganization brings the Office of the Chief Financial Officer (renamed the Financial Management Division) and the Copyright Modernization Office (renamed the Product Management Division) under the supervision of the Chief of Operations (renamed the Assistant Register and Director of Operations (“ARDO”)). Realigning these divisions under the ARDO consolidates operational support elements under one senior manager, in line with operational structures across the Library of Congress. This consolidation is expected to facilitate Office coordination with centralized Library services, and with similar functional elements of other service units. It is also expected to allow the Office to increase the effectiveness of communications across areas of operational responsibility, in alignment with strategic objectives.

The reorganization renames certain organizational elements and senior positions for purposes of greater clarity and consistency. The Office of Public Records and Repositories is renamed the Office of Copyright Records. As noted above, the Office of the Chief of Operations is renamed the Office of the Director of Operations. The following subordinate offices are also renamed: the Copyright Acquisitions Division (“CAD”) is renamed Acquisitions and Deposits (“A&D”); the Administrative Services Office (“ASO”) is renamed the Administrative Services Division (“ASD”); and the Receipt Analysis and Control Division (“RAC”) is renamed the Materials Control and Analysis Division (“MCA”). The Copyright Modernization Office (“CMO”) is renamed the Product Management Division (“PMD”).

Further, the Office of the Chief Financial Officer (“CFO”) is renamed the Financial Management Division (“FMD”) and work units under this division are also renamed, including by renaming the Licensing Division (“LD”) the Licensing Section (“LS”).

*Copyright Claims Board.* Second, the reorganization creates a reporting structure for the Copyright Claims Board (“CCB”) established by the CASE Act. The CCB is a voluntary, alternative forum to federal court to seek resolution of copyright disputes that have a low

economic value.<sup>3</sup> The CCB has the authority to hear copyright infringement claims, claims seeking a declaration of noninfringement, and misrepresentation claims under section 512(f) of title 17, as amended by the Digital Millennium Copyright Act.<sup>4</sup> The CCB will be headed by three Copyright Claims Officers who ensure that claims, counterclaims, and defenses are properly asserted, manage CCB proceedings and issue rulings, request production of information and relevant documents, conduct hearings and conferences, facilitate settlements, maintain records, provide public information, and ultimately render determinations and award monetary relief.<sup>5</sup> The CCB will report to the Copyright Office's General Counsel.

This rule is a technical change that constitutes a change to a “rule[ ] of agency organization”<sup>6</sup> which does not “alter the rights or interests of parties,” but merely “alter[s] the manner in which the parties present themselves or their viewpoints to the agency.”<sup>7</sup> Accordingly, the Office is publishing it as final without first issuing a notice of proposed rulemaking.

## **List of Subjects**

### **37 CFR Part 201**

Copyright, General provisions.

### **37 CFR Part 202**

Claims, Copyright.

### **37 CFR Part 203**

Freedom of information.

### **37 CFR Part 210**

Copyright, Recordings.

### **37 CFR Part 370**

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<sup>3</sup> See, e.g., H.R. Rep. No. 116–252, at 18–20 (2019); S. Rep. No. 116–105, at 7–8 (2019). Note, the CASE Act legislative history cited is for H.R. 2426 and S. 1273, the CASE Act of 2019, a bill nearly identical to the CASE Act of 2020. See H.R. 2426, 116th Cong. (2019); S. 1273, 116th Cong. (2019).

<sup>4</sup> 17 U.S.C. 1504(c)(1)–(3).

<sup>5</sup> *Id.* at 1503(a), 1506.

<sup>6</sup> 5 U.S.C. 553(b)(A) (notice and comment not required for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice”); see *JEM Broad. Co. v. F.C.C.*, 22 F.3d 320, 326 (D.C. Cir. 1994) (noting that “the ‘critical feature’ of the [553(b)(A)] procedural exception ‘is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency’”) (citation omitted).

<sup>7</sup> *JEM Broad. Co.*, 22 F.3d at 326.

Copyright, Recordings.

## Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201, 202, 203, 210, and 370 as follows:

### PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

**Authority:** 17 U.S.C. 702.

2. Amend § 201.1 as follows:

a. In paragraph (b)(2), in the table:

i. Remove the entry “Copyright Acquisitions” and add in its place the entry “Acquisitions and Deposits”.

ii. Revise the entry for “Deposit Demands”.

iii. Remove the entry “Licensing Division” add in its place the entry “Licensing Section”.

b. In paragraph (c)(3), remove “RAC” and add in its place “MCA”.

c. In paragraph (c)(5), remove “Licensing Division” from each place it appears and add in its place “Licensing Section”.

The additions and revision read as follows:

#### §201.1 Communication with the Copyright Office.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

| Type of submission        | Code   |
|---------------------------|--------|
| * * * * *                 |        |
| Acquisitions and Deposits | A&D    |
| Deposit Demands           | A&D/AD |
| Licensing Section         | LS     |
| * * * * *                 |        |

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3. Amend § 201.3 as follows:

a. Revise the section heading.

b. In paragraphs (a) and (b)(3), remove “Licensing Division” from each place it appears and add in its place “Licensing Section”.

c. Revise paragraph (c)(19).

d. In paragraph (e):

i. In the paragraph heading and introductory text, remove “Licensing Division” and add in its place “Licensing Section”.

ii. In the table, revise the heading for the first column and entry (7).

The revisions read as follows:

**§201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section.**

\* \* \* \* \*

(c) \* \* \*

**Table 1 to Paragraph (c)**

| <b>Registration, recordation, and related services</b>   | <b>Fees</b> |
|--|-------------|
|  | <b>(\$)</b> |
| * * * * *  |             |
| (19) Search report prepared from official records other than Licensing Section records<br>(per hour, 2 hour minimum) | 200         |
| * * * * *  |             |

\* \* \* \* \*

(e) \* \* \*

**Table 1 to Paragraph (e)**

| <b>Licensing Section services</b> | <b>Fees</b> |
|-----------------------------------|-------------|
|                                   | <b>(\$)</b> |

|  |     |
|--|-----|
| *****  |     |
| (7) Search report prepared from Licensing Section records (per hour, 2 hour minimum) | 200 |

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**§ 201.6 [Amended]**

4. Amend § 201.6(c)(3) by removing “Licensing Division” and adding in its place “Licensing Section”.

**§ 201.11 [Amended]**

5. Amend § 201.11 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**§ 201.12 [Amended]**

6. Amend § 201.12(a) by removing “Licensing Division” and adding in its place “Licensing Section”.

**§ 201.17 [Amended]**

7. Amend § 201.17 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**§ 201.18 [Amended]**

8. Amend § 201.18 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**§ 201.28 [Amended]**

9. Amend § 201.28 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**§ 201.29 [Amended]**

10. Amend § 201.29(e) introductory text by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO  
COPYRIGHT**

11. The authority citation for part 202 continues to read as follows:

**Authority:** 17 U.S.C. 408(f), 702.

**§ 202.19 [Amended]**

12. Amend § 202.19 by removing “the Copyright Acquisitions Division” from each place it appears and adding in its place “Acquisitions and Deposits”.

**§ 202.22 [Amended]**

13. Amend § 202.22(d)(6)(iii) by removing “the Copyright Acquisitions Division” and adding in its place “Acquisitions and Deposits”.

**§ 202.23 [Amended]**

14. Amend § 202.23(b)(2) by removing “Office of Public Records and Repositories” and adding in its place “Office of Copyright Records”.

**§ 202.24 [Amended]**

15. Amend § 202.24(d)(3) by removing “the Copyright Acquisitions Division” and adding in its place “Acquisitions and Deposits”.

**PART 203—FREEDOM OF INFORMATION ACT: POLICIES AND PROCEDURES**

16. The authority citation for part 203 continues to read as follows:

**Authority:** 5 U.S.C. 552.

17. Amend § 203.3 as follows:

- a. Revise paragraph (b).
- b. In paragraph (c):
  - i. Remove “also” from the fourth sentence.
  - ii. Add a sentence at the end of the paragraph.
  - iii. Add paragraph (c)(1) and reserve paragraph (c)(2).
- c. In paragraph (f), add a sentence at the end of the paragraph.
- d. In paragraph (g):
  - i. Remove “Public Records and Repositories” and add in its place “Copyright Records”.
  - ii. Add a sentence before the last sentence.
- e. Remove and reserve paragraphs (h) and (i).

The revision and additions read as follows:

### **§ 203.3 Organization.**

\* \* \* \* \*

(b) The Office of the Director of Operations is headed by the Assistant Register and Director of Operations (“ARDO”), who advises the Register on core business functions and coordinates and directs the day-to-day operations of the Copyright Office. This Office supervises human capital, finances, the administration of certain statutory licenses, mandatory acquisitions and deposits, product management, and materials control and analysis functions. It interacts with other senior management offices that report to the Register and frequently coordinates and assesses institutional projects. This Office has five divisions: Acquisitions and Deposits; Administrative Services; Financial Management; Materials Control and Analysis; and Product Management.

(1) Acquisitions and Deposits (“A&D”) administers the mandatory deposit requirements of the Copyright Act, acting as an intermediary between copyright owners of certain published works and the acquisitions staff in the Library of Congress (17 U.S.C. 407). It creates and updates records for copies received by the Copyright Office, demands particular works or particular formats of works as necessary, and administers deposit agreements between the Library and copyright owners.

(2) The Administrative Services Division (“ASD”) manages human capital and physical space issues for the Copyright Office, and serves as the liaison with other components of the Library for those matters.

(3) The Financial Management Division (“FMD”) oversees fiscal, financial, and budgetary activities for the Copyright Office. It contains the Licensing Section, which administers certain statutory licenses set forth in the Copyright Act. The Licensing Section collects royalty payments and examines statements of account for the cable statutory license (17 U.S.C. 111), the satellite statutory license for retransmission of distant television broadcast stations (17 U.S.C. 119), and the statutory license for digital audio recording technology (17 U.S.C. chapter 10). The Licensing Section also accepts and records certain documents associated with the use of the mechanical statutory license for making and distributing phonorecords of nondramatic musical works (17



U.S.C. 115) and the statutory licenses for publicly performing sound recordings by means of digital audio transmission (17 U.S.C. 112, 114).

(4) The Materials Control and Analysis Division (“MCA”) processes incoming mail, creates initial records, and dispatches electronic and hardcopy materials and deposits to the appropriate service areas. It operates the Copyright Office’s central print room and outgoing mail functions.

(5) The Product Management Division (“PMD”) advises on business process integration and improvements in connection with technology initiatives affecting the Copyright Office. It coordinates business activities, including resource planning, stakeholder engagement activities, and project management. The PMD oversees the Office’s data management, performance statistics, and business intelligence capabilities.

(c) \* \* \* The Office of the General Counsel also supervises the Copyright Claims Board (“CCB”) as it discharges its statutory mandate.

(1) The CCB is a voluntary, alternative forum to Federal court for parties to seek resolution of copyright disputes that have a low economic value. The CCB is headed by three Copyright Claims Officers who ensure that claims are properly asserted and appropriate for resolution; manage proceedings; render determinations and award monetary relief; provide public information; certify and maintain CCB records, including making proceeding records publicly available; and other related duties.

(2) [Reserved]

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(f) \* \* \* This Office is comprised of two sections: the Public Information Office and the Outreach and Education section.

(g) \* \* \* It contains three divisions: Recordation; Records Management; and Records, Research and Certification. \* \* \*

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## **PART 210—COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHYSICAL AND DIGITAL PHONORECORDS OF NONDRAMATIC MUSICAL WORKS**

18. The authority citation for part 210 continues to read as follows:

**Authority:** 17 U.S.C. 115, 702.

**§ 210.6 [Amended]**

19. Amend § 210.6(g)(4)(i) by removing “Licensing Division” and adding in its place “Licensing Section”.

**§ 210.7 [Amended]**

20. Amend § 210.7(g)(5)(i) by removing “Licensing Division” and adding in its place “Licensing Section”.

**PART 370—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES**

21. The authority citation for part 370 continues to read as follows:

**Authority:** 17 U.S.C. 112(e)(4), 114(f)(3)(A).

**§ 370.2 [Amended]**

22. Amend § 370.2 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

**§ 370.3 [Amended]**

23. Amend § 370.3(b) by removing “Licensing Division” and adding in its place “Licensing Section”.

**§ 370.4 [Amended]**

24. Amend § 370.4(c) by removing “Licensing Division” and adding in its place “Licensing Section”.

**§ 370.5 [Amended]**

25. Amend § 370.5 by removing “Licensing Division” from each place it appears and adding in its place “Licensing Section”.

Dated: June 8, 2021.

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**Shira Perlmutter,**  
*Register of Copyrights and Director  
of the U.S. Copyright Office.*

Approved by:

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**Carla Hayden,**  
*Librarian of Congress.*

**[BILLING CODE 1410-30-P]**

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